



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable I. E. Lanier
County Auditor
Cass County
Linden, Texas

Dear Sir:

Opinion Number O-4600
Re: Whether the Commissioners' Court
of Cass County can issue bonds
against Road District #1 and
levy a tax against Road District
#1-A to pay off bonds against
Road District #1.

We acknowledge receipt of your opinion request of
recent date and quote from your letter as follows:

"The Commissioners' Court of Cass County,
Texas, wants to issue Bonds amounting to \$54,000.00
against Road Dist. No. 1 of Cass County, Texas, and
levy a tax against Road District No. 1-A of Cass
County, Texas, for the purpose of paying off the
Bonds against Road Dist. No.1.

"Please let me know if the Court can issue
Bonds against Road Dist. No. 1 and levy a tax
against Road Dist. No. 1-A to pay off Bonds against
Road Dist. No. 1, and obligate."

Statutory authorization is essential to the issuance
of obligations of a county or political subdivision of this
State in the form or nature of bonds, and where the power to
issue bonds has been conferred it must be exercised in the
manner prescribed by the law. Robertson v. Breedlove, 61 Tex.
316; Lasater v. Lopez, 217 S. W. 373; Adams v. McGill, 148
S.W. (2d) 332.

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We find no provision in the Constitution or the Statutes of Texas authorizing the issuance of bonds by a Commissioners' Court against one road district and levying a tax against another road district in payment of said bonds.

The bonds mentioned in your opinion request must be issued under and in strict conformity with Section 52, Article 3, of the Constitution of the State of Texas, and laws enacted pursuant thereto, particularly Articles 752a, 752c, 752d, et seq. Article 752d provides, in part, as follows:

"Where any political subdivision, or any road district, desires to issue bonds, there shall be presented to the Commissioners' Court of the county in which such subdivision or district is situated, a petition signed by fifty or a majority of the resident property taxpaying voters of said subdivision or road district praying such court to order an election to determine whether or not the bonds of such subdivision or district shall be issued to an amount stated for the purpose of the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof, and whether or not taxes shall be levied on all taxable property within said subdivision or district in payment thereof. * * *

Said article also specifically provides that all preselection proceedings shall describe the road district by its number, describe the boundaries thereof as such boundaries are described and defined in the order of the Commissioners' Court establishing said district.

A careful reading of the statutes authorizing the issuance of road district bonds clearly reveals that the proposition to be voted on is whether or not a tax shall be levied against the taxable property of the district issuing the bonds.

The courts of this State have also held that even though the administration of the different road district funds is in the hands of the county commissioners, they may not divert funds from district purposes. The funds of one district

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are not transferable to the credit of another district within the county. 21 Tex. Juris., page 666; Austin Brothers Bridge Company v. Road District #3 of Liberty County, 247 S. W. 674 (Error Refused); Austin Brothers v. Patton, 226 S. W. 708 (Error Refused).

In view of the foregoing you are respectfully advised that it is the opinion of this department that the Commissioners' Court of Cass County cannot issue bonds against Road District No. 1 and levy a tax against Road District No. 1-A in payment of said bonds.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Claud O. Boothman*
 Claud O. Boothman
 Assistant

COB-s

RECEIVED JUL 10, 1942
Guadalupe Mann
 ATTORNEY GENERAL OF TEXAS

